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UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington, D. C.

February 4, 1943

DIRECTOR'S MEMORANDUM NO. 42

Order Administration Policy and Procedure

This memorandum refers to orders issued by the Secretary pursuant to Executive Order No. 9280 and assigned to FDA for administration.

Certain basic policies required to achieve a uniform over-all policy for FDA will be communicated to order administrators from time to time. Outlined below are certain preliminary policies which should serve as a guide to order administrators in the conduct of their work. Exceptions to these policies may be made only with the approval of the Director or the Deputy Director (Mr. C.W. Kitchen).

1. Loose Leaf Docket - A loose leaf docket should be built up for each order, incorporating a comprehensive summary of the provisions, amendments, constructions, interpretations, and applications of the order. Copies of the material for the loose leaf docket should be sent to the Deputy Director and to each of the regional offices of FDA. This docket constitutes a codified statement of the order and is invaluable when it becomes necessary to train a new man in the administration of a particular order. It will also be of invaluable assistance to the regional offices in answering questions concerning the order.
2. Interpretations - In most cases correspondence will take the form of routine answers to simple questions. However, cases will arise which require decision as between two possible constructions in instances of ambiguous language or decision as to the specific application of the order to an unusual set of facts. In such cases, once the order administrator's decision is made, a brief memorandum summarizing the facts and the decision should be prepared with sufficient number of copies for each of the dockets being kept in the particular commodity branch and for copies to be sent to the Office of the Deputy Director and the regional offices.

Where an interpretation clearly involves legal problems or interpretations with respect to a provision of an order which by its nature constitutes a major decision with respect to working of an order, the order administrator should submit all correspondence on such subject, together with a memorandum giving his own recommendation as to the nature of the interpretation which should be made, especially indicating the effect that the alternative interpretation would have on the problems of the order administration in the particular field. This material should be submitted to the Office of Deputy Director Kitchen and a formal interpretation will be drafted by the Solicitor's Office either for the signature of the Solicitor or for the signature of the Director or Acting Director. It will be important to publicize such formal interpretations and frequently it will happen that such interpretations are of sufficient importance to justify publication in the Federal Register.

No interpretations should be given by the regional offices at the outset-- and in any case no interpretations should be issued by any regional office at any time, which are not based on direct quotation from or specific instructions contained in memoranda or interpretation received from an order administrator or the Deputy Director (Mr. Kitchen).

3. Question and Answer Procedure - As soon as may be practicable after the correspondence has started coming in on an order, the order administrator should prepare a set of questions and answers with respect to it. This should be made as complete as possible in view of the experience with the correspondence. Copies of the questions and answers should be sent to the regional offices for their guidance. Copies should also be furnished to interested trade associations. In addition steps should be taken to have the questions and answers published as a means of reducing the volume of correspondence.

4. Letters involving more than one order

Where a letter relates to a number of different problems arising under a number of different orders the Administrator first receiving such communication should reply to the letter covering such part of the letter as is within the jurisdiction of his office. He is then to refer a copy of the original letter, together with a copy of his reply, to the Administrator of the Order having jurisdiction over the other problem or problems set forth in such communication.

In case the communication is an appeal for relief under one Order based on the contention that some provision of another Order makes compliance difficult or impossible, the Order Administrator first receiving such communication shall communicate with the Order Administrator having jurisdiction over the problem referred to and discuss the nature of the solution and the necessary action under the respective orders. When such solution is not immediately apparent on preliminary discussion, the file should be referred to the Office of the Deputy Director for a decision on policy.

5. Hypothetical Questions. - Answers to inquiries should be given only on the basis of a specific set of facts. Hypothetical questions, especially from trade associations, should be avoided.

6. Congressional Correspondence - Letters in reply to Congressional correspondence should be drafted for the signature of the Director or Acting Director.

7. Staff Conferences. - Frequent staff conferences between the branch chief and an order administrator and his associates working on the same order should be held to coordinate understanding and policy.

8. Industry Advisory Committee - Problems arising under an order should be scheduled at the meetings of the interested Industry Advisory Committee, and the order administrator should always attend such meetings.

9. Quotas - Quotas established under limitation orders are not property rights and may not be sold for a consideration, or assigned without express approval of the FDA. Permission to transfer quotas shall be consid-



ered as granting an exception as in the case of an appeal and shall be subject to the rules governing appeals.

Transfer of quotas may be permitted which is incidental to the sale of an entire business, as a going concern, provided substantially the same customers and territory are served, and provided further that no part of the consideration in the transfer of the business is paid for the "quotá."

10. Delegation of Authority to Administer Orders - It is the policy of the FDA that all food distribution orders shall be administered by the chief of the branch in which the order originated, or by some person within such branch nominated by the chief of the branch and designated by the Director.

The form to be used by the Director in redelegating authority to administer orders is FDA-304. Copies may be obtained in Administrative Services Division.

DELEGATION OF AUTHORITY TO ADMINISTER  
FOOD DISTRIBUTION ORDER NO. \_\_, \_\_. No. \_\_ Admin.

Pursuant to the authority vested in me by Food Distribution Order No. \_\_, dated \_\_, 1943, issued pursuant to Executive Order No. 9280, dated December 5, 1942, and to effectuate the purposes of such orders, there is hereby delegated to \_\_, \_\_ Branch, authority to administer Food Distribution Order No. \_\_, relative to \_\_, subject to such general instructions with respect to policy and procedure as may from time to time be issued by me or by the Deputy Director.

Done at Washington, D. C. this  
day of 1943.

\_\_\_\_\_  
Signature of Order Administrator    Director of Food Distribution

In the event that the authority to administer orders is redelegated to someone in the branch other than the chief, such person shall be under the general supervision of the chief of the branch. The administration of an order shall be carried on in accordance with the general instructions with respect to administrative policy and procedure as may from time to time be issued by the Director or by the Deputy Director.

It is the duty of the chief of a branch in which an order originates to nominate some person within his branch to be administrator of the order. The nomination of the person to administer the order shall be made by inserting the name of such person in the above form and sending it with the

draft of the order to the Deputy Director who will transmit it to the Director. If the chief of a branch intends to administer the order himself, he shall insert his name in the above form.

11. Availability to Answer Questions - Sufficient flexibility should be allowed within each branch so that more than one man is familiar with the problems of administration of a particular order. This allows for handling peak loads of work and assures availability at all times of someone qualified to give prompt, definite replies to questions by long distance telephone; to telephone calls from Congressmen, and to handle all inquirers who call in person.

12. Written Record - Only emergency questions should be handled over the telephone. If it is necessary to handle a question by telephone, it should be emphasized that the answer is not binding unless the question is re-submitted in writing and the reply confirmed in writing by the order administrator. The same considerations apply to questions answered during personal calls.

Both in the case of telephone calls and personal visits there should be placed in the files a brief notation of the company and subject involved. Care should be taken to do so in cases where it appears that misunderstanding may arise as to the nature of the reply or where a deliberate effort may be made to misinterpret or misuse the answer.

*Roy F. Hendrickson*  
Director

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UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington, D. C.

February 4, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 1

Procedure for Preparation and Clearance of Food Distribution Orders

1. Notice to Deputy Director and Solicitor of Formulation of Order - Whenever a branch determines that there is a need for issuing a food distribution order, the branch should notify Deputy Director Kitchen's office of its intent to draw up an order, giving in memorandum form a brief description of the proposed order and a brief statement of its need and purpose. If the Deputy Director concurs as to the need for the issuance of the order, he will immediately send copies to the Solicitor's Office, the Chief of Requirements and Allocations Control, the Chief of Civilian Food Requirements, and other interested parties. These copies shall be treated as confidential. After concurrence by the Deputy Director, the branch should proceed with preparation of the order.
2. The branch is responsible for:
  - (a) Compilation of data pertinent to the preparation of the order.
  - (b) Communicating with the Marketing Reports Division for the preparation of a press release. The press release shall be prepared in an original and five copies and the original and five copies are to be forwarded to the branch by the Marketing Reports Division.
  - (c) Cooperation with the Office of the Solicitor in the drafting of the order.
  - (d) The branch shall prepare a Memorandum of the Director (to the Secretary) containing a brief explanation of the order and a concise statement of the reasons for the order and what the effect of its major provisions will be. This is to be prepared in an original and five copies.
  - (e) At the same time the order is being drafted the branch should fill out the form delegation for the signature of the Director in which he re-delegates the administration of the order to a person nominated by the branch chief.
  - (f) In case the proposed order involves problems of inter-agency understanding as to allocations between agencies and procurement procedure, the commodity branch should prepare a memorandum in an original and five copies, setting forth a proposed agreement to be signed by the interested agencies governing the allocation and procurement programs. This agreement should specify the purchasing agencies and the amount of the commodity or commodities reserved under the order that each is to purchase.



(g) If the chief of the branch believes unusual circumstances make additional information desirable he may include a Memorandum to the Deputy Director.

(h) Finally the branch shall assemble a docket containing the following material:

- Order - Original, one salmon, 15 white copies
- Memorandum of the Director (to the Secretary) - original and five copies
- Delegation of Authority from Director to Order Administrator - original and four copies
- Press release - original and three copies
- Memorandum of Understanding on Inter-Agency Procurement (if applicable) original and five copies
- Preliminary draft of a proposed Solicitor's Opinion

After the docket has been prepared in the branch and the pertinent material assembled therein, it is forwarded to the Permanent Records Unit.

3. Maintenance of Central Clearance Point In Permanent Records Unit.-The Permanent Records Unit is to be the central clearance point in FDA for all food distribution orders. All questions concerning the status of orders in the process of being cleared should be referred to the Permanent Records Unit, Room 2728, Extension 2277. After the completion of each step in the process, the docket should be cleared through Permanent Records Unit. Usually this clearance should be made by routing the docket through the Permanent Records Unit. However, the clearance may be made by telephone when necessary.

4. Permanent Records Unit, after setting up a clearance control record, will transmit the docket to the Office of Deputy Director Kitchen.

5. The Office of the Deputy Director will be responsible for: (48 hours minimum)

(a) Clearance of proposed order with agencies outside of FDA, as well as clearance with other branches and divisions within FDA itself.

(b) Clearance of the order through the Food Advisory Committee, or notice of the issuance of orders not discussed with the Committee before issuance.

(c) Scheduling with and securing approval of any proposed Memorandum of Understanding by the Inter-Agency Committee on Procurement.

(d) Clearance of the order through the Order Clearance Committee.

6. Approval of the Deputy Director and Director (24 hours minimum) - The documents will then be transmitted to the Deputy Director and through him to the Director for approval. If the Director approves, he signs both the original and one white copy of the Memorandum (to the Secretary) and initials two copies of the press release, the salmon copy of the order, and a copy of the Memorandum of Understanding, if any.



7. Clearance With the Office of the Solicitor (24 hours minimum) - The docket will then be transmitted to the Office of the Solicitor at which time the formal Opinion of the Solicitor is attached to the docket. After the Solicitor's Opinion is attained, the docket shall be sent to Permanent Records Unit.

8. Permanent Records after checking with the Deputy Director's office, if necessary, shall transmit the docket to the Secretary's Records for his signature. After the Secretary signs the order, it is sent to Secretary's Records. Secretary's Records in turn sends the docket to Permanent Records Unit.

9. Permanent Records Unit, when it receives the documents from Secretary's Records, shall:

(a) Call branch or other office for dates and other data and insert these in the proper documents. (Permanent Records Unit also assigns the FDA number to the order.)

(b) Send one initialed copy of press release and one unsigned copy of the order to Marketing Reports Division by messenger.

(c) Send the standard form delegating authority to administer the order to the Director's office for his signature.

(d) Transmit the proper documents to the Secretary's Records by messenger.

(e) The duplicate original of the order will be routed with the other material by the Secretary's Records to the Permanent Records Unit. Permanent Records Unit, after making a photostatic copy, will send the duplicate original to the Hearing Clerk.

(f) Upon obtaining the signature of the Director authorizing an FDA official to administer an order, Permanent Records Unit will make the necessary contacts so that telephone calls, telegrams, correspondence, etc., may be directed to the administrator of the order. (This involves notifying the chief operator, guard service, Secretary's mail room, and the mail room of the Administration.)

10. Marketing Reports Division shall

(a) Issue the press release.

(b) Notify all regional offices of the issuance of an order immediately after it has been signed.

(c) Arrange with Administrative Services for printing of copies of the order and for distribution to the regional offices and interested branches of the Food Distribution Administration.

(d) Arrange with the interested branch and Administrative Services Division for a mailing list to be used in sending the order to the trade or industry affected.

12. The following is a table showing the ultimate distribution of the copies of the various documents involved in the issuance of an order. The table shows the minimum number of copies needed.

	: Order	: Memo of : : Director : : (to the : : Sec'y)	: Delegation : : of authority : : (to commodi- : : ty branch)	: : : Release : : :	: : : Opinion : : :	: Memo of under- : : standing on : : procurement, : : if applicable
<u>Sec'y Records</u>	:	:	:	:	:	:
For the files	:1 salmon	:1 original:	:	:	:1 original :	:
	:1 white	:1 white :	:	:	:1 white :	:
For the Federal	:1 original :	:	:	:	:	:
Register	:2 white :	:	:	:	:	:
<u>Hearing Clerk</u>	:1 duplicate:	:	:	:	:	:
	: original :	:	:	:	:	:
<u>Public Printer</u>	:1 white :	:	:	:	:	:
<u>Solicitor's Office</u>	:	:	:	:	:	:
For the files	:1 white	:1 white	:1 white	:	:1 blue	:1 white
	:	:	:	:	:1 white	:
For use during	:2 white	:	:	:	:1 white	:
clearance	:	:	:	:	:	:
<u>Permanent Records</u>	:1 white	:1 white	:1 original	:2 white:	:1 white	:1 original
	:	:1 dup. orig.:	:2 white	:	:1 white	:1 white
<u>Deputy Director</u>	:	:	:	:	:	:
For use during	:1 white	:	:	:	:	:
clearance	:	:	:	:	:	:
<u>Asst. Deputy Dir.</u>	:	:	:	:	:	:
For use in	:4 white	:	:	:	:	:
clearance with:	:	:	:	:	:	:
other agencies:	:	:	:	:	:	:
<u>Commodity Branch</u>	:	:	:	:	:	:
For the files	:1 white	:1 white	:1 white	:1 white:	:1 white	:2 white
For use during	:1 white	:	:	:	:	:(enough for
clearance	:	:	:	:	:	:other agencies)
<u>Marketing Reports</u>	:1 white	:	:	:1 orig.:	:	:
	:	:	:	:	:	:
	:1 original	:1 orig.	:1 original	:1 orig.:	:1 original	:1 original
	:1 dup. orig.:	:1 dup. orig.:	:4 white	:3 white:	:1 blue	:5 white
	:1 salmon	:4 white :	:	:	:6 white	:
	:16 white	:	:	:	:	:

The following are the only copies which may be removed from the docket during the clearance process. All other copies must remain in the docket:

(a) Deputy Director - 1 white copy of the order for use during the clearance process.

(b) Assistant Deputy Director - 4 white copies of the order for use in clearance with other agencies.

(c) Commodity Branch - 1 white copy of the order for use during the clearance process.

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*Roy F. Hendrickson*  
Director

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Food Distribution Administration  
Washington, D. C.

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February 4, 1943

DIRECTOR'S MEMORANDUM NO. 42

SUPPLEMENT 2

Establishment of the Order Clearance Committee

There is hereby established within the FDA the Order Clearance Committee. The function of this committee is to serve as the administrative clearance mechanism at the staff level. It will clear all limitation, allocation, restriction, and set-aside orders issued pursuant to the authority conferred upon the Secretary by Executive Order No. 9280. All such orders prepared in any branch must be submitted to this committee for review and recommendation prior to consideration by the Director or any agency other than the FDA.

The committee is to be composed of Mr. Jacob Rosenthal, Assistant Deputy Director, who will be Chairman of the Committee; Mr. Kenneth W. Berkey, Assistant Deputy Director; Mr. Marcus J. Gordon, Assistant Deputy Director; Mr. Otie M. Reed, Assistant Deputy Director, and Mr. John M. Cassels, Chief of Requirements and Allocations Control.

*Roy F. Hendrickson*

Director





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UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington, D. C.

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DIRECTOR'S MEMORANDUM NO. 42

Supplement 3

Order Appeals Procedure

All food distribution orders authorize the Director to grant exceptions from provision of the orders in cases where compliance would result in exceptional or unreasonable hardship. All requests for exceptions should be handled in accordance with this procedure.

1. Form of Petition. No prepared form need be used in the submission of an appeal. The petition (letter or telegram) should fully set forth:

- (a) The provision or provisions of the order to which exception is requested and the nature of the exception requested;
- (b) Statement alleging undue hardship;
- (c) Facts justifying the exceptions.

The petition should be signed by the petitioner or a representative of the petitioner.

2. System of Control: Each petition for an exception shall be numbered in the order received using the order number as a prefix, for example, petitions under the Baking Products Order shall be numbered 1-1, 1-2, 1-3, etc.; those under the Butter Order 2-1, 2-2, 2-3, etc. A control system shall be set up in each order administrator's office which will permit:

- (a) Special tabulations to be made in relation to exceptions granted, especially as to amounts of food or other materials released.
- (b) Summaries to be made as to the types of exceptions which have been granted.
- (c) Compliance checks to be made as to the accuracy of representations, on the basis of which an exception is granted.

3. Basis for decision. Exceptions to an order should not normally be granted without some investigation or verification of the representation and the facts presented by the petitioner. In a limited number of cases this will not be practicable or necessary, and decisions may be made upon the basis of signed representations. Unconfirmed oral representations should never be considered as a basis for granting an exception.

Important facts which would weaken the case must not be omitted. If the petitioner has not furnished all pertinent facts, he should be requested to supplement the petition to the extent necessary to permit a decision. The burden for making a case is upon the petitioner.

Difficulties or hardships which result from ordinary business hazards or which are a natural consequence of an order cannot be accepted as the basis for an exception thereto.

The order administrator should be prepared to treat all petitioners equally, and before granting an exception, must consider whether he is willing to make similar concessions to other persons similarly affected by the order.

Before granting any exception, consideration should be given to the question of whether the exception should not generally be granted to all individuals through an amendment.

No exceptions should be granted without first determining from the Compliance Branch whether or not the petitioner is under investigation or sanctions are contemplated because of non-compliance with an order. This clearance with the Compliance Branch can be made by the order administrator in an informal manner. Normally, exceptions should not be granted if the petitioner has been found to be in non-compliance with an order. Under unusual circumstances, the order administrator may refer the petition to the Order Appeals Committee with a recommendation that the exception be granted.

4. Procedure in Granting Exceptions. When an order administrator wishes to recommend approval to an exception he will prepare a letter specifying the exception granted for the signature of Deputy Director Kitchen.

Before transmitting the letter to Mr. Kitchen's office the entire file shall be referred to the office of Deputy Director Russell for approval. After approval by Deputy Director Russell's office, the letter and the petition shall be transmitted to Mr. Kitchen. Approval from Deputy Director Russell's office need be obtained only once with respect to exceptions of the same type.

Proposed letters granting an exception must have the approval of the Solicitor's Office as to form and wording. Such clearance will be obtained by the office of Deputy Director Kitchen. This clearance will be obtained only once with respect to all exceptions of the same type.



5. Petitions Referred to Order Appeals Committee. Petitions for exceptions which involve no fundamental change in policies already established need not be referred to the Appeals Committee.

The following should be referred to the Committee for consideration:

- (a) Petitions requiring a new policy decision.
- (b) Petitions which the order administrator or Deputy Director Kitchen elects to refer because of the importance of the decisions to be made.
- (c) Petitions on which Deputy Director Russell's office does not concur in the proposed exception recommended by the order administrator.
- (d) Petitions received from persons in non-compliance of an order on which the order administrator recommends an exception be granted.

Petitions to be considered shall be referred to the Committee secretary. The secretary will present the petitions to the Board. Order administrators and other branch representatives may be requested or elect to be present during the consideration of any petition.

The order administrator shall be advised of the decision of the Committee and requested to prepare any changes in the letter to the petitioner required by the decision.

6. Order Appeals Committee. An Order Appeals Committee is hereby established within the Food Distribution Administration. The Committee shall consist of Mr. Budd A. Holt, Chairman, and four representatives designated to represent the Deputy Directors. Mr. R. L. Bland shall serve as Secretary of the Committee and will receive all petitions which are to be acted upon by the Committee. The Committee will meet at least once a week at a time to be announced by the Chairman.

7. Duties of Committee Secretary. The Secretary of the Appeals Committee shall have the following duties:

- (a) Analyze appeals which come before the Committee and prepare brief memorandum summarizing the facts and opposing principles or policies.

- (b) Schedule hearings where necessary giving proper notice to all parties, and arrange for minutes of the hearing.
- (c) Draft, for submission to Deputy Director Kitchen for approval of the Solicitor's office and for signature by the Director, letters giving the decision of the Committee.
- (d) Notify all interested agencies of the Department of policy decisions.
- (e) Draft, for the signature of Deputy Director Kitchen, replies to appeals which come before the Committee, on which clear policy decisions have already been made, and which have already been approved.

8. Order Appeals Committee Hearings. Hearings before the Appeals Committee will be informal and administrative in character. They will not be proceedings involving or governed by rules of evidence or legal technicalities, but will be conducted by the Chairman in an orderly manner to elicit such facts as may be deemed essential by the members of the Committee and to provide a fair hearing for Appellants who believe that a written brief may not do full justice to their case.

Hearings should be as brief as possible. Therefore, a full presentation of the facts and the basis for the appeal should be submitted in the form of a written brief in advance, and a short summary should be made available to all members by the Secretary of the Committee.

The hearing itself, therefore, should not be devoted to going over the same ground, but to supplement the written brief with oral argument and to give the members of the Committee an opportunity to clarify, by questioning, any doubtful points.

9. Denial of Petitions. Petitions may be denied simply by a letter signed by an order administrator or the Committee secretary. A full, courteous and sympathetic explanation justifying the denial shall be incorporated in such letter. In every case where a petition is denied, a copy of the reply should be forwarded to Deputy Director Meyer for his information.

10. Summaries of Decisions. Weekly report of exceptions granted shall be prepared by each order administrator and transmitted to the secretary of the Order Appeals Committee. The Committee secretary will prepare summaries of all order decisions and transmit copies to the Deputy Directors and to the regional offices of F.D.A.

11. Exemption Follow-up. It is important that all order administrators periodically review the file of exemptions granted (a) in order to check compliance or representations made; (b) determine whether the exemption is still necessary; (c) ascertain the use of material released; for example, it will often be the case that the exemption is granted to release material for some specific purpose such as sale to a particular governmental or other agency. In such cases it is important either to obtain advance confirmation from such agency that they are purchasing such material or follow up and assure disposition in accordance with the terms of exemption granted. In every case, the agency for whose benefit material is released should be notified that this was done and that release was conditional upon sale to them.

12. Appeals. All communications which request a reconsideration or otherwise disagree with a decision by an order administrator shall be referred to Mr. Kitchen, together with any comment or recommendation which the branch chief may desire to make. Denials of these appeals shall be issued over the signature of the Deputy Director.

In the more serious cases or where a hearing is demanded, and in the opinion of the Deputy Director seems justified, the case shall be referred to the Order Appeals Committee for a decision.

13. Functions of the Regional Offices of FDA. All appeals must be handled and determined by the order administrator and Deputy Director as set forth in the statement of order appeals procedure. The regional office can lend valuable service by advising persons who consult with them on the facts to be included in a petition. As soon as possible after an order is issued, the order administrator shall prepare, for the guidance of regional offices, a memorandum of any special instructions which may be applicable to particular types of exceptions. Such memorandum will be signed by Mr. Kitchen as Deputy Director or by the person designated by him to sign as Acting Deputy Director in his absence or inability to act.

  
Director





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Food Distribution Administration  
Washington, D. C.

February 20, 1943

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U. S. Department of Agriculture

DIRECTOR'S MEMORANDUM NO. 42

Supplement 4

Order Clearance Committee

Director's Memorandum No. 42, Supplement 2 is hereby amended to provide for the addition to the Clearance Committee of Norman Leon Gold. Mr. Gold is in charge of arranging for me the agenda and clearance as necessary of limitation, allocation, restriction and set-aside orders with the Food Advisory Committee.

*Roy F. Hendrickson*  
Director

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UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington, D. C.

February 22, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 5

Food Distribution Order Compliance - Policy and Procedure

Director's Memorandum No. 42 sets forth the policies and procedures for the administration of Food Distribution Orders. The purpose of this memorandum is to outline the general policies and procedures to be followed by the Compliance Branch in the enforcement of Food Distribution Orders.

Jurisdiction:

In accordance with Director's Memorandum No. 2, Supplement 3, the Regional Administrator will assume jurisdiction over violations of food distribution orders under the circumstances and in the manner outlined below:

1. Reference by branch charged with administration of the order.
2. At the request of the Chief of the Compliance Branch.
3. On his own initiative.

All information concerning violations of food distribution orders, as well as requests for investigations received by or originating in the Washington office, will immediately be referred (through the Washington office of the Compliance Branch) to the appropriate Regional Administrator for attention.

Spot Checks:

The Regional Administrator will from time to time make spot checks on the operations of processors, distributors, and others affected by Food Distribution Orders.

Violations:

1. Minor or technical violations - Cases falling into this class will generally be handled at the local level. Appropriate records of all such violations and the disposition of all such cases shall be maintained in the regional office.
2. Serious or willful violations - If a preliminary investigation or "spot check" indicates a serious or willful violation, a formal investigation shall be made.

Investigations:

Formal investigations of Food Distribution order violations will be undertaken at the request of (1) the order administrator of the appropriate branch, (2) the Director or Deputy Director in charge of order administration of FDA, (3) the regional administrator, or on the initiative of the Chief of the Compliance Branch.

Action at Regional Level:

On the basis of the facts revealed by the investigation, the regional administrator, after consultation with the regional attorney, shall (1) refer the matter to the regional representative of the appropriate branch for recommendation, or (2) refer the report to the regional attorney for the institution of administrative proceedings, or (3) refer the report to the regional attorney for court action, either civil or criminal, or both, as may appear warranted by the facts developed by the investigation.

In accordance with detailed procedure to be established, minor criminal offenses and civil cases not of national importance will be referred direct by the Regional Administrator to the local office of the Anti-trust Division of the Department of Justice; other criminal cases and civil cases of national importance will be referred to the Chief of the Compliance Branch.

Administrative Hearings:

Administrative hearings will be held in accordance with prescribed rules of procedure and practice.

Reports to Compliance Branch:

Copies of all formal investigation reports are to be submitted to the Compliance Branch immediately upon their completion. Statistical and narrative reports on regional compliance operations shall be made to the chief of the Compliance Branch in accordance with procedures to be established by him.

Action at Washington Level:

Case records received in Washington will be reviewed by the Compliance Branch. On the basis of consultations with the appropriate commodity branch and the Office of the Solicitor, the Chief of the Compliance Branch will make his recommendation for administrative or court action, or both, to the Deputy Director responsible for order administration. Such recommendations will be routed to the Deputy Director through the appropriate branch for initialing. In case of disagreement between the appropriate branch and the Compliance Branch as to the nature of action to be taken, the Deputy Director will make the final decision.

*Roy F. Hendrickson*  
Director

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Re: \_\_\_\_\_

UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington, D. C.

February 24, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 6

Regionalization of Administration of Food Distribution  
Orders Nos. 11 and 13

Regional administrators are hereby authorized, subject to the qualifications below, to perform and to be responsible for all functions incidental to the administration of Food Distribution Orders No. 11 and 13 relating to the distribution of milk and cream within their regions. Any action on these orders taken within the region shall be in accordance with the general policy established by the regional administrator.

In areas subject to regulation under a Federal milk marketing agreement or order, the facilities of the Federal Milk market administrators shall be fully utilized by the regional administrators. The milk market administrators have a specialized knowledge of their markets not elsewhere available. This is generally recognized by the industry. In order to utilize this knowledge, the regional administrators shall seek the cooperation of market administrators in their respective markets, and shall keep them informed of all actions. Federal milk market administrators, on their part, shall cooperate with the regional administrators in advising them of any reported violations of the orders and in assisting them, wherever possible, and within the limits of their authority as market administrators, in enforcing the provisions of the orders. In general, the market administrators shall have the duty of informing the milk industry of the provisions of the orders and any amendments and interpretations. The regional administrators shall have the duty of making investigations of acts of non-compliance and of taking measures to secure the enforcement of the orders in such cases. The milk market administrators and the regional administrators shall consult with each other, as the need arises, in order to keep each other informed of actions taken in connection with the orders.

As is the case in the regionalization of any activity, policies and procedures to achieve nation-wide uniformity will be established in Washington. The establishment of these policies and procedures will be the function of the Washington office. Also, original interpretations of the orders and the granting of exemptions or relief to handlers will be handled in Washington.

In the near future, more specific instructions will be issued for the guidance of the regions in the administration of FDA orders 11 and 13. As further orders affecting the milk industry are formulated, the responsibility for their administration and enforcement will be provided for in subsequent memoranda.

*Roy F. Hendrickson*  
Director





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Food Distribution Administration  
Washington, D. C.

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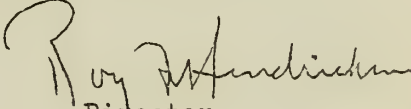
March 8, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 7

Order Clearance Committee Membership

Director's Memorandum No. 42, Supplement 2 is hereby amended to provide for the addition to the Order Clearance Committee of Mr. Budd Holt and for the appointment thereto of Mr. Gordon Peyton, vice Mr. Jacob Rosenthal, resigned. Mr. Peyton is designated Chairman of the Order Clearance Committee.

  
Director





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WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.

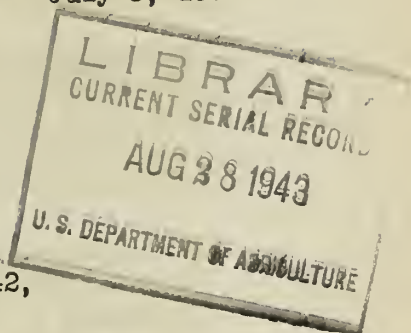
July 5, 1943

A  
DIRECTOR'S MEMORANDUM NO. 42

Revision 1

Order Administration Manual

This supersedes Director's Memorandum No. 42,  
together with all supplements thereto.



PART I. PROCEDURE FOR PREPARATION AND CLEARANCE OF FOOD  
DISTRIBUTION ORDERS AND AMENDMENTS

A. Initiation and Preparation of Orders and Amendments.

1. Determination as to the Need for Orders and Notice to Deputy Director.

Where it is determined that there is need for issuing an order or amendment to an existing order, it will be the responsibility of the appropriate branch chief to compile all data pertinent to the preparation of the order and to prepare a memorandum of intention (original and eight copies) addressed to the Deputy Director in charge of Order Administration outlining briefly the need for the proposed order, the purposes to be accomplished thereby, and the method suggested to accomplish the desired objectives.

2. Order Review and Clearance Committee.

There is hereby established an Order Review and Clearance Committee composed of the Deputy Director in charge of Order Administration, who will be chairman of the Committee, the Deputy Director in charge of Procurement, the Acting Deputy Director in charge of Civilian group of Branches; the Economic Advisor to the Director, the Chief of Requirements and Allocations Control, and the Chief of Compliance Branch, together with a Secretary and any other persons designated by the Director. The Associate Solicitor in Charge of Food Distribution will act in an advisory capacity to the committee. Alternate members will not be appointed except in emergency cases. A majority of the members will constitute a quorum.

The function of this committee is to review the proposal for the issuance of limitation, allocation, restriction, or set-aside orders.

The Secretary of the Committee shall forward a copy of the Memorandum of Intention to the members of the committee. It shall be the responsibility of the appropriate members of the committee to consult with interested divisions and branches of the War Food Administration in connection with the Memorandum of Intention.

As communications, petitions, and reports required in connection with orders shall normally be routed to the appropriate regional office in the first instance, it shall be the responsibility of the Committee to determine those cases where it is advisable to handle such communications, reports, and petitions otherwise.

In the event a branch chief does not approve the proposed issuance of an order or any provision thereof, he may forward a memorandum addressed to the Secretary of the Order Review and Clearance Committee outlining briefly his objection to the proposed order.

Where an objection has been received, the Secretary of the committee may invite such person or persons objecting to the Order to attend the meeting of the committee.

The committee will meet at intervals to review the need for the issuance of an order, or amendment to an existing order.

The Branch Chief sponsoring a proposed order shall meet with the Committee when such proposal is under discussion.

Where the committee concurs as to the need for the issuance of the proposed order or amendments, the Secretary of the Committee shall forward copies of the recommendation of the Committee to the regional administrators.

3. Preparation of the Order or Amendment.

After concurrence by the Order Review and Clearance Committee, the branch is responsible for:

- (a) Drafting the order in collaboration with the Office of the Solicitor.

The assistance of an attorney in drafting the order shall not be requested prior to notification of the decision of the Order Review and Clearance Committee.

- (b) Communicating with Marketing Reports Division for the preparation of a press release.

An original and three copies of the press release will be forwarded to the branch by the Marketing Reports Division.

- (c) Where a proposed order requires the keeping of records, or submission of reports, the branch chief shall clear the

order and report form with Program Analysis and Appraisal Branch in order to be assured of conformance with the requirements of the Bureau of the Budget, and arrange with Reproduction and Distribution Section, for the ultimate reproduction and distribution of such form.

- (d) Preparing a memorandum (original, duplicate-original, and twelve copies) to the Administrator for the signature of the Director containing the following data, where applicable to the proposed order:

- (1) Purpose of the order:
  - a. Reserve the supply.
  - b. Direct the distribution of critical foods or equipment.
  - c. Limit nonessential production.
  - d. Other reasons.
- (2) Scope of the order:
  - a. Products, materials, or equipment affected.
  - b. Industry(s) affected.
  - c. Restrictions imposed.
  - d. Exceptions, if any.
  - e. Nature of reports, if required.
- (3) Effect of order, if any, with respect to the following:
  - a. Amounts of critical foods that will be conserved under the order.
  - b. Existing inventories.
  - c. Extent and expected period of labor displacement.
  - d. Foreign requirements.
- (4) Present and prospective supply and demand positions of items covered. (Give latest available data on stocks, production, requirements, etc.)
- (5) Extent to which industry has been consulted.

- (e) Where the proposed order or amendment involves problems of inter-agency understanding as to procurement or allocation between agencies, the branch should prepare a memorandum in an original and five copies, setting forth a proposed agreement to be signed by the interested agencies governing the allocations and procurement programs. This agreement should specify the purchasing agencies and the amount of the commodity or commodities reserved under the order that each is to purchase. Where a memorandum of understanding has been prepared, the branch shall immediately forward a copy to the office of the Deputy Director in charge of procurement.



- (f) If the branch chief believes unusual circumstances make additional information desirable, he may prepare a memorandum to the Deputy Director responsible for Order Administration.

4. Delegation of Authority to Administer Order.

All food distribution orders or amendments shall be administered by the chief of the branch in which the order originated, or by some person within the branch nominated by the branch chief, and designated as order administrator by the Director.

In the event the authority to administer orders is delegated to other than the branch chief, such person shall be under the general supervision of the chief of the branch.

It is the duty of the branch chief to nominate some person within his branch to administer the order. The nomination of such person by the branch chief shall be made by completing Form FDA-304. Where the branch chief elects to administer the order himself, he shall insert his name in Form FDA-304.

Form FDA-304 shall be completed and transmitted with the docket to the office of the Deputy Director in charge of Order Administration.

5. Assembling the Docket.

The branch shall assemble a docket containing the following:

Order - Original, one salmon, 8 white copies.  
Memorandum to the Administrator - Original, duplicate-original, and twelve copies.  
Delegation of Authority to Administer Order (FDA-304) - Original and four copies..  
Press release - Original and three copies.  
Memorandum of Understanding on Inter-Agency Procurement, if applicable - Original and five copies.

In those cases where a memorandum of understanding is not necessary, a statement to that effect should be attached to the order.

Preliminary draft of a proposed Solicitor's Opinion.

It is essential that the above data, together with the specified copies, be inserted in the docket as such data and copies are necessary for clearance and approval of the order.

After the docket has been prepared and assembled in the manner outlined above, it shall be forwarded to the Permanent Records Unit.



6. Preparation of Ditto Copies of Orders or Amendments.

Upon receipt of the final draft of the order from the office of the Solicitor, the branch shall, prior to assembling the docket, remove the designated copy of the order to be used in preparing a master ditto, which master ditto shall be forwarded to Reproduction and Distribution Section.

The Reproduction and Distribution Section shall prepare 30 ditto copies to be forwarded to Permanent Records Unit.

Permanent Records Unit will forward five copies to the appropriate branch chief, one copy to Marketing Reports Division, and the balance to the Secretary of the Order Review and Clearance Committee.

Upon receipt of the ditto copies of the order, the Secretary of the Committee will forward copies to the members of the committee.

B. Maintenance of Central Clearance Point in Permanent Records Unit.

The Permanent Records Unit is to be the central clearance point in FDA for all food distribution orders or amendments thereto. All questions concerning the status of orders in the process of clearance should be referred to such unit.

After completion of each step in the process of clearance, the docket should be cleared through Permanent Records Unit. Usually this clearance should be made by routing the docket through the Permanent Records Unit. However, if desirable, the clearance may be made by telephone.

Upon receipt of the docket from the branch, the Permanent Records Unit, after setting up a clearance control record, will transmit the docket to the Office of Deputy Director in charge of Order Administration.

C. Clearance and Approval.

1. Order Review.

The office of the Deputy Director in charge of Order Administration shall review the order and related data to be assured of conformance with the recommendations of the Order Review and Clearance Committee, prior to obtaining the formal approval of the order.

2. Outside Agencies.

Dockets containing proposed set-aside or quota orders shall be forwarded to the office of the Deputy Director in Charge of Procurement who will be responsible for obtaining the approval of procurement agencies affected by such order, together with any memorandum of understanding on procurement that such docket may contain.

The office of the Deputy Director in charge of Order Administration will be responsible for obtaining any necessary clearance with other outside agencies.

### 3. Approval

#### (a) Deputy Director and Director.

After review and clearance as outlined in paragraphs 1 and 2 above, the documents will be transmitted by the Deputy Director in charge of Order Administration to the Director for approval.

The Director may desire to clear the order through the office of the Solicitor prior to approving such order. In such cases, the Deputy Director shall obtain clearance with the office of the Solicitor prior to the approval by the Director.

Where the Director approves, he will sign the original and duplicate-original copy of the Memorandum to the Administrator, initial the salmon copy of the order, the press release, and a copy of the Memorandum of Understanding, if any.

#### (b) Solicitor

The docket should then be transmitted to the office of the Solicitor, at which time the formal opinion of the Solicitor will be attached and the docket forwarded to the Permanent Records Unit.

#### (c) Administrator.

Permanent Records Unit shall transmit the docket to the Administrator for approval.

### D. Approved Docket.

Permanent Records Unit will receive the approved docket from the Secretary's Records and shall:

1. Call the appropriate branch for dates and other data, and insert such information in the proper documents.

The effective date of the order shall be not less than two days from the date of publication in the Federal Register, unless otherwise authorized by Deputy Director in charge of order administration.

2. Assign the FDA number to the order.

3. Forward the initialed copy of the press release, together with one unsigned copy of the order to the Marketing Reports Division by messenger.

4. Return the proper documents to the Secretary's Records.
5. Obtain a photocopy of the duplicate-original copy of the order, and forward the duplicate-original to the Hearing Clerk.
6. Upon return of the signed copy of Form FDA-304 designating the order administrator, Permanent Records Unit will make the necessary contacts in order that correspondence, telegrams, etc., received in Washington may be routed to the administrator of the order.

E. Marketing Reports Division.

The Marketing Reports Division, upon receipt of the initialed press release and copy of the approved order shall:

1. Notify all regional offices by teletype or telegram of the issuance of an order immediately after such order has been formally approved.
2. Issue the press release.
3. Forward copies of the order by air mail to all regional offices (airmail-special delivery to the West Coast).

F. Director's Food Distribution Orders.

The procedure outlined above in connection with food distribution orders shall apply to Director's Food Distribution Orders, except that:

1. The final approval of the order will be by the Director; therefore, the memorandum accompanying the order shall be directed to the Director.

G. Distribution.

The regional administrators in accordance with procedures outlined by Administrative Services Division in Washington, shall be responsible for distributing orders and amendments thereto, unless otherwise determined in connection with a particular order by the Assistant Deputy Director responsible for Field Operations.



## PART II. ORDER ADMINISTRATION POLICY AND PROCEDURE

The following procedure shall govern the administration of Food Distribution Orders:

### A. Deputy Director

The Deputy Director, designated by the Director, has been assigned the staff responsibility and authority for handling all phases of the administration and enforcement of orders, which include the coordination of policies, plans, and procedures for such administration and enforcement.

### B. Order Administrators

The order administrator will prepare for each order a loose leaf docket which will contain in the following order:

- |                                   |  |
|-----------------------------------|--|
| 1. Order, Amendments, Supplements | 6. Designation of Order Administrator                |
| 2. Purpose and Background         | 7. Delegation of Authority to<br>Order Administrator |
| 3. Press Release                  | 8. Interpretations                                   |
| 4. Questions and Answers          | 9. Typical Cases Processed                           |
| 5. Solicitor's Opinion            |  |

As the above-mentioned material is prepared, ditto copies shall be prepared and forwarded to the Deputy Director in charge of order administration, the Compliance Branch, and to the regional administrators.

### C. Educational Program

The Deputy Director in charge of Order Administration shall be responsible for the initiation of an educational program sufficiently broad to disseminate the necessary information to all persons within FDA administering and enforcing food orders, as well as to the trades or industries affected by such orders.

Unless otherwise provided, the regional administrator shall have specific responsibility for insuring that all persons affected within the region are properly informed.

The Food Industry Advisory Committees, both national and regional, should be used as an informational medium in advising the trade of all phases of the order.

### D. Interpretations

Questions will arise which require decision as between two possible constructions in instances of ambiguous language or decision as to the specific application of the order to an unusual set of facts. In such cases the questions shall be submitted by the regional administrator to the order administrator.



The order administrator shall prepare a recommended decision, addressed to the appropriate regional administrator, for the approval and signature of the Deputy Director in charge of Order Administration. In such cases the decision, together with a brief summarization of the facts involved shall be prepared in ditto form and copies forwarded to the Deputy Director in charge of Order Administration, Compliance Branch and the regional offices.

Where an interpretation clearly involves legal problems or interpretations with respect to a provision of an order which by its nature constitutes a major decision with respect to working of an order, the regional administrator should submit all correspondence to the order administrator on such subject, together with a memorandum giving his own recommendation as to the nature of the interpretation which should be made, especially indicating the effect that the alternative interpretation would have on the problems of the regional administrator in the particular field. This material should be submitted by the order administrator to the Office of Deputy Director in charge of order administration and a formal interpretation will be drafted by the Solicitor's Office either for the signature of the Solicitor or for the signature of the Director. In all cases, the order administrator and the regional administrator shall be immediately advised of such interpretation.

E. Quotas.

Quotas established under limitation orders are not property rights and may not be sold for a consideration, or assigned without express approval of the FDA. Permission to transfer quotas shall be considered as granting an exception as in the case of a petition and shall be subject to the rules governing petitions.

F. Written Record.

If it is necessary to handle a question by telephone, it should be emphasized that the answer is not binding unless the question is re-submitted in writing and the reply confirmed in writing by the regional administrator or the order administrator, as the case may be. The same considerations apply to questions answered during personal calls.

Both in the case of telephone calls and personal visits there should be placed in the files a brief notation of the company and subject involved.

PART III. PROCEDURE WITH RESPECT TO COMMUNICATION, APPEALS  
FROM PROVISIONS OF ORDERS, OR PETITIONS FOR RE-  
LIEF FROM HARDSHIPS UNDER FOOD ORDERS

A. General.

All communications concerning Food Distribution Orders, amendments thereto, or Director's Food Distribution Orders, as well as all petitions for relief from compliance with the provisions of such orders or amendments will be routed in accordance with the provisions of the particular order.

In the event communications or petitions are routed to the order administrator in the first instance, such communications or petitions shall be handled in accordance with the contents hereof by the order administrator.

B. Policy with Respect to Granting of Relief.

Food orders are issued to assure an adequate supply and efficient distribution of food to meet essential war and civilian needs. Food orders have the force and effect of law and every person subject to these orders must comply therewith, unless otherwise permitted pursuant to a petition for relief from hardship. The primary fact which entitles a person to relief of this character must be that the hardship encountered by him is "exceptional and unreasonable." Hardship alone will not suffice. The natural consequence of some orders may give rise to hardships upon persons affected thereby. Such hardships shall not be deemed "exceptional and unreasonable." Likewise, difficulties encountered as a result of ordinary business hazards are not to be considered "exceptional and unreasonable hardships."

The policy of the Food Distribution Administration is that relief from compliance with the terms of an order normally shall not be granted without some investigation or verification of the representations and facts made by the person seeking such relief. In a limited number of cases, investigation of such representations and facts may not be practicable or necessary, and decisions may be made upon the basis of the signed representations of the person seeking relief. However, relief shall not be granted on the basis of unconfirmed oral representations.

It is essential that all persons seeking relief from compliance with the terms of a particular order shall be treated equally.

Relief from compliance with the provisions of an order shall not be granted where a person seeking such relief is under investigation, or sanctions are contemplated, because of non-compliance with an order.



However, in view of the objective of the food orders to assure an adequate distribution of food to meet essential war and civilian needs, instances will arise where it may be necessary to grant the petition of a person seeking relief from compliance with an order even though such person is under investigation or has been in the status of non-compliance with the order. Particularly will this be true in instances where the person seeking relief from the terms of an order forms an important link in the distributive chain and where it would impede the war effort not to give the relief sought.

C. Regional Offices of FDA.

1. Communications.

The administrator of the regional office shall be guided by the questions and answers, and formalized interpretations of the order in handling communications received in connection with orders and amendments thereto.

Questions which require an interpretation involving legal problems or interpretations with respect to a provision of an order which constitute a major decision with respect to the working of an order shall be submitted to the order administrator.

2. Petitions.

a. Petitions.

Petitions for relief from compliance with the provisions of an order, or amendments thereto, may be denied by the regional administrator. Petitions for relief from compliance with the provisions of an order, or amendments thereto, may be granted by the regional administrator, subject to prior approval of the Deputy Director on Order Administration.

b. Investigation.

Immediately upon the receipt of a petition, the regional administrator shall consult with the Compliance Division within the region to determine whether such person is under investigation or whether administrative or statutory sanctions have been imposed, and shall also consult with the appropriate commodity specialist in the regional office.

The regional administrator shall make an investigation of the representations and facts contained in the petition, where such investigation is deemed practicable and necessary.

c. Denials.

If, in the opinion of the regional administrator, the facts submitted and the facts elicited by investigation, if any, as well as discussion with the appropriate commodity specialist do not warrant the granting of a petition, he shall have the authority to deny such petition. Copies of such action, together with a

copy of the petition, shall be forwarded to the order administrator.

In cases where a petition has been denied by the Regional Administrator and the petitioner is known to be violating the order pending final determination of his petition, the Regional Administrator should immediately notify the Chief of the Compliance Division, who should determine, in collaboration with the appropriate commodity representative and the Regional Attorney whether legal action should be instituted.

d. Granting Relief.

As granting relief from compliance with the provisions of an order has the effect of amending the order insofar as the petitioner is concerned, the granting of petitions must have the prior approval of the Director or Deputy Director in charge of Order Administration. In some instances consideration must be given to whether it would not be advisable and equitable to amend the order rather than grant the relief sought by the particular petitioner.

Where the facts in the case, as outlined above, in the opinion of the regional administrator warrant the granting of relief, and such regional administrator has not received prior approval from the Director for granting such relief, he shall forward the petition, together with a statement of facts based on his investigation, and his recommendation to the order administrator.

In emergency cases, a summary of the petition and the investigation may be submitted by telegraph, and the petition and related data submitted in the regular manner.

It is to be understood that the action of the regional administrator in this respect shall not be that of an appellant, but rather that of assisting the Director in a final determination of the case.

Where the regional administrator has been authorized by the Director or Deputy Director in charge of Order Administration, to grant relief in particular types of situations, such grant may be made by letter over the signature of the regional administrator with a copy for the Order Administrator. However, relief shall not be granted by the regional administrator unless, and except as, authorized by the Director or Deputy Director in charge of Order Administration.

e. Other Cases.

All cases in which the regional administrator may be in doubt as to the appropriate decision shall be submitted to the order administrator, together with a brief statement of facts and the recommendation of the regional administrator.

In any event, the regional administrator may, without passing upon a petition, refer the case to the order administrator advising the petitioner that the petition has been referred to the order administrator.



D. Order Administrator.

The order administrator, under the general supervision of the branch chief, will receive all recommended grants of appeals or petitions, statement of facts, and recommendation of the regional administrator, as well as all appeals from the decision of the regional administrator.

Where the granting of a petition or appeal would adversely affect the Civilian Food Requirements Branch and Requirements and Allocations Control, such grants should be cleared with the interested persons.

After reviewing the petition or appeal and related data received from the regional administrator, the order administrator may:

1. Grant the petition or appeal, where the granting of such petition or appeal is consistent with his delegation of authority received from the Deputy Director in charge of Order Administration.
2. Deny such petition or appeal, or
3. Submit the case to the Deputy Director in Charge of Order Administration, together with his recommendation.

A copy of the decision of the Order Administrator shall be forwarded to the appropriate regional administrator.

E. Deputy Director.

Where an appeal or petition for relief from hardship is referred to the office of the Deputy Director in charge of Order Administration for action, the Deputy Director shall have the power to grant or authorize the granting of the relief requested in such appeal or petition.

Appeals or petitions for relief from hardship should normally be routed to the office of the Deputy Director under the following circumstances:

1. Where the order administrator recommends that the relief requested be granted, and the order administrator has not been delegated authority to grant in such case.
2. Where the order administrator has not reached a decision with respect to the case and desires to consult with the office of the Deputy Director.

The office of the Deputy Director may, in any event, without passing upon a petition refer the matter to the Petition Review Committee.

F. Appeals from Decisions Rendered over the Signature of the Regional Administrator.

A petitioner may appeal through the regional office to the Order Administrator from denials made by the regional administrator. In such cases, the appeal should be handled in the manner outlined in paragraph D above. Where additional information is required, such information should be requested from the appropriate regional administrator.

G. Appeals from Decision Rendered over the Signature of the Order Administrator.

Where a petitioner seeks a review of determination made by the Order Administrator, all papers in the case shall be transmitted by the order administrator to the office of the Deputy Director, who will have all such papers incorporated into the file with respect to the particular petition, and such file shall be referred to the Secretary of the Petition Review Committee.

H. Petition Review Committee.

The Petition Review Committee is hereby established within the Food Distribution Administration and shall consist of those persons designated by the Director.

I. Duties of the Petition Review Committee.

1. The Petition Review Committee shall have the power to recommend to the acting Director, designated by the Director, and in his absence by the Director, that the petition should be granted or denied. Letters setting forth the action of the Petition Review Committee, addressed to the petitioner with a copy for the appropriate regional administrator and the order administrator, shall be signed by the Chairman of the Petition Review Committee. The Secretary of the Petition Review Committee shall transmit such letters to the Acting Director for approval and signature.
2. Where the Petition Review Committee recommends granting the appeal, and the granting of such appeal would adversely affect the Civilian Food Requirements Branch, Requirements and Allocations Control, or other branches, the Secretary of the Committee shall consult with the interested branches.
3. The Secretary of the Committee shall prepare an agenda of the matters to come before the Petition Review Committee for the convenience of the members of the Committee.

4. Where it is determined to permit the appellant to attend the meeting of the Committee, the Secretary shall notify the petitioner of the time, place, and date of the meeting.
5. The Secretary of the Petition Review Committee shall maintain minutes of each meeting.
6. The Secretary of the Petition Review Committee shall notify the Deputy Director in charge of Order Administration of the action taken by the Committee on all appeals.

J. Numbering of Petitions.

Each petition received in the regional office shall be numbered in the order received using the region symbol and order number as a prefix, for example, the third petition under Order Number 1 in each region shall be numbered as follows:

NE-FDO-1-3	Northeast Region
S-FDO-1-3	Southern Region
GL-FDO-1-3	Great Lakes Region
SW-FDO-1-3	Southwest Region
MW-FDO-1-3	Midwest Region
RM-FDO-1-3	Rocky Mountain Region
P-FDO-1-3	Pacific Region

The above indicating the third petition received in connection with Order Number 1.

Petitions shall be numbered serially under each symbol and order number, the last number indicating the number of the petition received in connection with the particular order.

All correspondence in connection with a petition or appeal shall refer to the number assigned to the petition.

Petitions or appeals received by the order administrator shall be numbered serially in connection with each order. Where a number has previously been assigned to a petition by the regional office, all correspondence in connection with such petition shall refer to both numbers.

K. Reports in Connection with Petitions.

The regional administrator shall submit a weekly summary report to the Office of the Deputy Director in charge of Order Administration containing a brief summary statement of the petitions denied and those pending at the regional level. The order administrator shall prepare such report of appeals or petitions denied or granted as well as those pending at the Washington level.



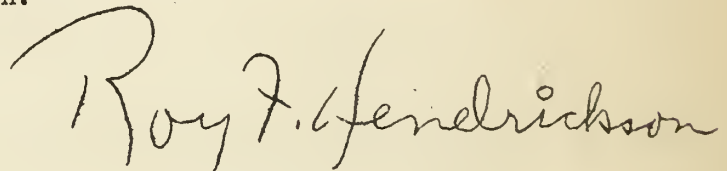
The summary shall contain a concise statement of the facts presented by the appeal or petition and the denial or grant made, and shall refer to the appeal or petition by the petition number. In addition, the statement should contain, where the relief is granted, a statement of the amount of set-aside materials released, the use to which such materials are to be put, and the Government agency, if any, which is to secure such materials, in the event that the effect of granting the petition is to release material set aside by a particular order or amendment.

The office of the Deputy Director shall combine all summaries received from the Order Administrators and the Regional Administrators with summaries of any subsequent action taken by the office of the Deputy Director or the Petition Review Committee.

It shall be the duty of the office of the Deputy Director to prepare periodic summaries of actions taken upon appeals or petitions for relief from hardship. Copies of the periodic summaries should be forwarded to the Compliance Branch, regional administrators, and to the regional attorneys of the office of the Solicitor.

L. Letters Denying or Granting Relief.

Letters denying the appeal or petition or granting the requested relief shall refer in all instances to the number assigned to the particular appeal or petition.

  
Director

INDEX ENTRY:  
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WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.

July 26, 1943

DIRECTOR'S MEMORANDUM NO. 42

Revision 1  
Supplement 1

Food Order Education

Recent developments have demonstrated the need for some definite and intensive educational effort on the part of the Food Distribution Administration in order to promote better understanding and appreciation of our food orders by the trades and industries they affect and by the public in general.

Purpose and Scope of "Food Order" or "Compliance" Education

The educational phase of food order administration is not to be confused with the regular work performed by the order administrators in the various commodity branches, such as issuing formal interpretations or answering specific inquiries relating to food orders. The main task is to give the trades and industries affected by food orders a better understanding of the same, as a basis for better compliance. This effort must also be extended to include the public in general, since the cooperation of the consumer is essential in accomplishing the purpose of food orders. Our goal is to make those under the regulations, and the American public, conscious of the fact that compliance with food orders will help to insure our victory on the food front and will be a major contribution toward the ultimate success of our gigantic military operations. "Voluntary compliance" is our aim and our appeal to the patriotism of all concerned, and it is hoped that punitive action can be reserved for the few who consider themselves immune to the spirit and obligation of our time.

General Responsibility for Food Order Education is hereby placed in the Deputy Director for Regulatory Activities and Order Administration. In accordance with this policy the following specific assignments of functions and responsibilities in connection with food order education are made:

Deputy Director for Regulatory Activities and Order Administration

1. General direction of planning and operation of programs designed to secure voluntary compliance.
2. Coordination of educational activities of the various FDA branches and divisions concerned, both in Washington and in the field, and to coordinate the investigatory and enforcement activities of the Compliance Branch with educational activities.
3. Securing the cooperation of other Federal agencies whose facilities can be utilized in carrying out these educational activities. The Marketing Reports Division will handle all

relations with those Federal and other agencies whose main functions are in the informational and public relations field.

4. Securing the cooperation of national organizations whose assistance in food order education may be desirable.

#### Commodity Branches

1. Development of educational programs on their own initiative and upon recommendation of the Compliance Branch, which includes
  - (a) Setting objectives of program.
  - (b) Preparation of technical and factual information for use by the Marketing Reports Division in preparing educational material for distribution or publication.
2. Maintaining close relations with the various industry and trade organizations, both in Washington and in the field, in order to obtain their advice and assistance in selecting and utilizing the best methods of approach in food order education.
3. In cooperation with the Regional Offices, to plan and hold educational meetings in the regions with members of trades and industries affected by food orders.

These meetings are probably the most effective means of insuring understanding of and compliance with Food Distribution orders. They are mainly the responsibility of regional administrators, assisted by the regional commodity representatives, the regional compliance divisions, the regional Marketing Reports Divisions, and the state and area supervisor. It is of paramount importance in connection with such meetings that our speakers be thoroughly familiar with the subject matter and with the particular trade or industry concerned. Therefore, the role to be played by the regional commodity representatives in this respect cannot be over-emphasized.

In order to inaugurate needed educational programs as rapidly as possible, each commodity branch shall designate one liaison representative to work with the Marketing Reports Division, the Compliance Branch, and with the Deputy Director. The names of such representatives shall be submitted to the Deputy Director.

The backlog of educational work is considerable, and commodity branches are therefore directed to submit to the Deputy Director as soon as possible an outline of their present and future plans for educational work.

The Wholesalers and Retailers Branch and the Processors Branch will utilize their existing facilities in close cooperation with the Deputy Director and the commodity branches, in obtaining the cooperation of national and regional industry advisory committees and trade associations, or the organization of industry "task forces" in connection with food order education.

#### Civilian Branches

Depending upon the nature of any particular food distribution order or program and the special aspects of educational work necessary in connection therewith, the Civilian Branches will be called upon to use their facilities and services for enlisting the cooperation of

1. Consumer and civic groups.
2. Labor and industrial groups.
3. State and county nutrition committees.

#### Marketing Reports Division

This division will have the following responsibilities:

1. Close working relationship with the Commodity Branches in the development of educational program plans.
2. Preparation in final form of educational material in close cooperation and consultation with the Commodity Branches.
3. Relations with Federal and other agencies in the informational and public relations field, with the Office of Information of the Department, with the Deputy Administrator of the War Food Administration in charge of information, and with the trade press, general press and radio, both in Washington and in the field.
4. To plan in cooperation with the Commodity Branches the distribution of all printed and mimeographed materials. To work closely with, and furnish instructions to, the Administrative Services Division for carrying out these plans.

#### Compliance Branch

This branch will perform the following functions:

1. On the basis of monthly reports received from regional offices, and analyses of these reports prepared by the Compliance Operations Division, the Compliance Branch will furnish the Deputy Director with accurate and detailed information as to where and under which food order or program educational efforts are most urgently needed.



2. The branch will continue and further develop its spot-check operations as part of the educational program.

#### Regional Offices

The functions of directing and coordinating the educational work in the regions correspond more or less to those of the Deputy Director at the Washington level. These functions may be performed by a Deputy Regional Administrator or by a regional food order representative attached to the office of the Regional Administrator.

Close cooperation in the regional offices between the commodity divisions, Marketing Reports Division and Compliance Division is equally as important as at the Washington level. In the interest of uniformity, it is intended to determine general food order education policies and programs in Washington, but it will be the task of the regional offices (commodity divisions, Marketing Reports Division and Compliance Division) to adapt such programs to regional conditions and needs.

In addition to the aforementioned meetings with members of trades and industries, relations with local organizations and authorities in connection with food order education will also be the function of the regional offices. On the basis of the nature of such local contacts, the regional administrators may determine in each instance whether this function can be performed more advantageously by commodity representatives or by Marketing Reports personnel.

*Roy F. Hendrickson*

Director

#### INDEX ENTRIES:

Food Order Education (See also Order Administration)  
Order Administration: Food Order Education

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A2 D31  
Exp 2

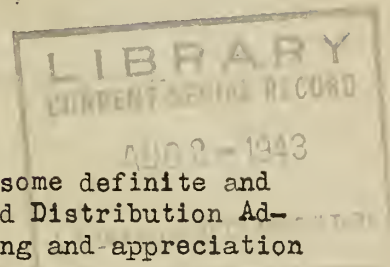
WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.

July 26, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 1

Food Order Education



Recent developments have demonstrated the need for some definite and intensive educational effort on the part of the Food Distribution Administration in order to promote better understanding and appreciation of our food orders by the trades and industries they affect and by the public in general.

Purpose and Scope of "Food Order" or "Compliance" Education

The educational phase of food order administration is not to be confused with the regular work performed by the order administrators in the various commodity branches, such as issuing formal interpretations or answering specific inquiries relating to food orders. The main task is to give the trades and industries affected by food orders a better understanding of the same, as a basis for better compliance. This effort must also be extended to include the public in general, since the cooperation of the consumer is essential in accomplishing the purpose of food orders. Our goal is to make those under the regulations, and the American public, conscious of the fact that compliance with food orders will help to insure our victory on the food front and will be a major contribution toward the ultimate success of our gigantic military operations. "Voluntary compliance" is our aim and our appeal to the patriotism of all concerned, and it is hoped that punitive action can be reserved for the few who consider themselves immune to the spirit and obligation of our time.

General Responsibility for Food Order Education is hereby placed in the Deputy Director for Regulatory Activities and Order Administration. In accordance with this policy the following specific assignments of functions and responsibilities in connection with food order education are made:

Deputy Director for Regulatory Activities and Order Administration

1. General direction of planning and operation of programs designed to secure voluntary compliance.
2. Coordination of educational activities of the various FDA branches and divisions concerned, both in Washington and in the field, and to coordinate the investigatory and enforcement activities of the Compliance Branch with educational activities.
3. Securing the cooperation of other Federal agencies whose facilities can be utilized in carrying out these educational activities. The Marketing Reports Division will handle all

relations with those Federal and other agencies whose main functions are in the informational and public relations field.

4. Securing the cooperation of national organizations whose assistance in food order education may be desirable.

#### Commodity Branches

1. Development of educational programs on their own initiative and upon recommendation of the Compliance Branch, which includes
  - (a) Setting objectives of program.
  - (b) Preparation of technical and factual information for use by the Marketing Reports Division in preparing educational material for distribution or publication.
2. Maintaining close relations with the various industry and trade organizations, both in Washington and in the field, in order to obtain their advice and assistance in selecting and utilizing the best methods of approach in food order education.
3. In cooperation with the Regional Offices, to plan and hold educational meetings in the regions with members of trades and industries affected by food orders.

These meetings are probably the most effective means of insuring understanding of and compliance with Food Distribution orders. They are mainly the responsibility of regional administrators, assisted by the regional commodity representatives, the regional compliance divisions, the regional Marketing Reports Divisions, and the state and area supervisor. It is of paramount importance in connection with such meetings that our speakers be thoroughly familiar with the subject matter and with the particular trade or industry concerned. Therefore, the role to be played by the regional commodity representatives in this respect cannot be over-emphasized.

In order to inaugurate needed educational programs as rapidly as possible, each commodity branch shall designate one liaison representative to work with the Marketing Reports Division, the Compliance Branch, and with the Deputy Director. The names of such representatives shall be submitted to the Deputy Director.

The backlog of educational work is considerable, and commodity branches are therefore directed to submit to the Deputy Director as soon as possible an outline of their present and future plans for educational work.

The Wholesalers and Retailers Branch and the Processors Branch will utilize their existing facilities in close cooperation with the Deputy Director and the commodity branches, in obtaining the cooperation of national and regional industry advisory committees and trade associations, or the organization of industry "task forces" in connection with food order education.

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3. State and county nutrition committees.

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4. To plan in cooperation with the Commodity Branches the distribution of all printed and mimeographed materials. To work closely with, and furnish instructions to, the Administrative Services Division for carrying out these plans.

#### Compliance Branch

This branch will perform the following functions:

1. On the basis of monthly reports received from regional offices, and analyses of these reports prepared by the Compliance Operations Division, the Compliance Branch will furnish the Deputy Director with accurate and detailed information as to where and under which food order or program educational efforts are most urgently needed.



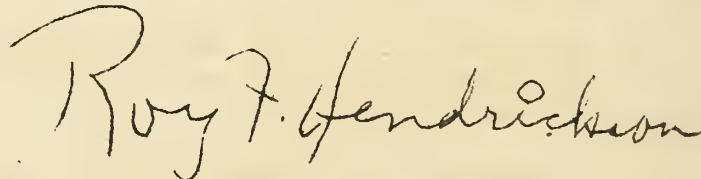
2. The branch will continue and further develop its spot-check operations as part of the educational program.

#### Regional Offices

The functions of directing and coordinating the educational work in the regions correspond more or less to those of the Deputy Director at the Washington level. These functions may be performed by a Deputy Regional Administrator or by a regional food order representative attached to the office of the Regional Administrator.

Close cooperation in the regional offices between the commodity divisions, Marketing Reports Division and Compliance Division is equally as important as at the Washington level. In the interest of uniformity, it is intended to determine general food order education policies and programs in Washington, but it will be the task of the regional offices (commodity divisions, Marketing Reports Division and Compliance Division) to adapt such programs to regional conditions and needs.

In addition to the aforementioned meetings with members of trades and industries, relations with local organizations and authorities in connection with food order education will also be the function of the regional offices. On the basis of the nature of such local contacts, the regional administrators may determine in each instance whether this function can be performed more advantageously by commodity representatives or by Marketing Reports personnel.



Director

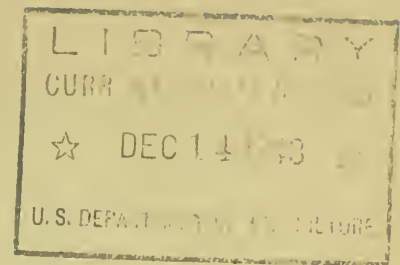
#### INDEX ENTRIES:

Food Order Education (See also Order Administration)  
Order Administration: Food Order Education



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A 2561  
Cap. 1

WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.



November 30, 1943

DIRECTOR'S MEMORANDUM NO. 42

Revision 1

Supplement 2

Policy Governing Enforcement and Voluntary Compliance  
Activities in the Field

The purpose of this memorandum is to define and assign responsibility for the enforcement of food distribution orders, and certain other activities in the field designed to obtain voluntary compliance with such orders.

In order to insure uniform interpretation by the regions there follow brief definitions of the terms which constitute the subject matter of this memorandum:

Voluntary Compliance Activities - As used in this memorandum is interpreted to mean food order education; checking extent of compliance or noncompliance (spot checking), screening violations, disposition of very minor and unintentional infractions of the provision of an order and cooperative efforts with trade groups; in other words, securing voluntary compliance without resort to formal administrative proceedings or enforcement through the courts.

It is our first duty to make certain that those directly affected by food distribution orders understand the need for such orders as well as their purpose and provisions. However, when efforts to obtain voluntary compliance do not bring the desired results or are inadvisable, the enforcement job begins.

Enforcement - The term "enforcement" includes the formal investigation of violation cases by investigators or auditors, and the preparation of such cases for formal administrative or court action.

Responsibility for Voluntary Compliance Activities and Enforcement -  
In Washington, the responsibility for food order education activities lies

mainly with the various commodity branches and the Marketing Reports Division, as outlined in Director's Memorandum No. 42, Revision 1, Supplement 1, and the responsibility for enforcement is vested in the Compliance Branch. In the field, responsibility for all order administration activities in connection with all food orders that can, by their nature, be handled in the regions, will rest with the regional office. This job involves the utilization of regular administrative personnel of the regional, State, and area offices. It also includes the responsibility for recommending investigations where efforts at obtaining voluntary compliance fail and formal action seems necessary.

Enforcement in the regions will be the responsibility of the Compliance Divisions and will be carried out through investigators and auditors under the direction and supervision of these Divisions. The use of investigators and accountants must be confined to specialized investigational and auditing assignments. Where the work load warrants it, investigators may be stationed at strategic points throughout the region. It is believed, however, that best use of investigators and auditors will be obtained by having them stationed at regional headquarters.

Those violation cases which appear to be the most willful and flagrant should be most expeditiously processed. Court action - criminal prosecution or injunction - is preferable to the application of administrative remedies in cases of willful violations.

Before starting work on an assignment, it is desirable that investigators and auditors contact the area offices concerned, both to inform the Area Supervisor of their presence in the area and to obtain from him any additional information which may be of assistance in connection with the assignment.

The specific responsibilities in regard to order administration and enforcement at the various levels in the region are as follows:

#### Regional Office

Food Order Representative- The responsibility for coordinating order administration activities in the regional office has been vested in a food order representative. This responsibility includes seeing that information supplied by the commodity divisions and the Marketing Reports Division concerning food distribution orders gets to the State offices; arranging for the instruction of State Supervisors by commodity specialists from the regional commodity divisions in the various phases of administering particular orders; securing the assistance of the State Supervisors in keeping the mailing lists maintained by the Administrative Services Division for distribution of printed copies of food distribution orders up to date, as well as responsibility for securing adequate distribution of the printed orders to persons or firms affected by the same; promoting work with the regional trade groups by the commodity division concerned with a specific order.

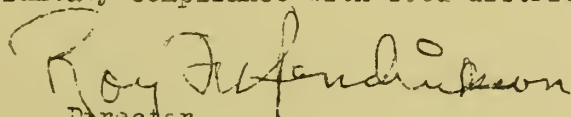
Compliance Division - The Compliance Division shall have responsibility for the investigation of violations referred by the Compliance Branch; receiving requests for formal investigations from the State Supervisors and for screening such requests and assigning investigations in order of importance for the region as a whole and in the light of the number of available investigators; preparing and submitting cases to the Regional Director and for compiling the necessary reports on food order enforcement activities for the Regional Director and the Compliance Branch; and issuing warning letters on approval of the Regional Director in cases not warranting formal administrative or court action.

#### State Office

In addition to the responsibility for supervising the work of the area supervisors in respect to order administration activities, the State Supervisor shall be responsible for promoting State-wide educational measures; providing the area supervisors with as full information as possible on the orders; screening requests of the area supervisors for formal investigations on the basis of the over-all compliance picture in the State; advising area supervisors on the informal disposition of minor cases; requesting investigations by the regional Compliance Division; submitting recommendations to the Regional Director for disposition of formal cases on the basis of a summary of the investigation report submitted to the State Supervisor by the investigator assigned to a case; submitting necessary reports to the regional office; and enlisting the assistance and cooperation of appropriate State officials in securing voluntary compliance with food distribution orders.

#### Area Office

Except where other administrative arrangements are made, initial responsibility for voluntary compliance rests with the area office. This responsibility includes meeting with the various groups contributing to the successful administration of food distribution orders; answering specific questions concerning such orders; supplying information with respect to petitions for relief from hardship; interviewing persons found in minor or technical violation of orders and disposing of such violations informally through an oral warning, further education of the violator in the provisions of the order concerned, or through recommendation to the State Supervisor for the issuance of a warning letter by the regional Compliance Division; making spot checks in order to determine the extent of compliance with food distribution orders by those affected; making recommendations to the State Supervisor for formal investigations; cooperating with the investigators or auditors assigned to conduct formal investigations or audits; submitting necessary reports to the State Supervisor on the status of compliance with food distribution orders in the area; and enlisting the assistance and cooperation of appropriate local officials in securing voluntary compliance with food distribution orders.

  
Director

#### INDEX ENTRIES:

Food Order Education (see also Order Administration)

Order Administration:

Food Order Education:

Assignment of responsibilities for:  
Field activities





WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.

December 2, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 3

Preparation and Clearance of Questions and Answers in Connection  
with Food Distribution Orders

Director's Memorandum No. 42, Revision 1, provides that a loose leaf docket will be prepared for each food distribution order and that such docket will contain a set of questions and answers. The need for the required docket in the administration of food orders cannot be over-emphasized.

In order to expedite the preparation and clearance of questions and answers, immediately after concurrence as to the need for issuing an order by the Order Review and Clearance Committee the particular commodity branch, in collaboration with the Marketing Reports Division, shall prepare such questions and answers. Where necessary, the assistance of the Solicitor's Office may be requested in preparing questions and answers.

It is urged that the preliminary questions and answers be available for issuance with or immediately following the issuance of the related order. As questions are received in the administration of the order, supplementary questions and answers shall be prepared in the manner outlined herein.

The questions and answers prepared as outlined above should be approved prior to issuance, in the following order: (1) the appropriate commodity branch, (2) Marketing Reports Division, (3) Office of the Deputy Director for Food Industry and Regulatory Activities, and (4) Solicitor's Office.

It is to be noted that changes should not be made after approval by the Solicitor's Office.

The Solicitor's Office will return the document to the Office of the Deputy Director for Food Industry and Regulatory Activities for forwarding to the particular commodity branch.

*Robert H. Patterson*  
Acting Director

INDEX ENTRIES:

Order Administration: Questions and Answers, preparation and clearance of  
Questions and Answer for FDO orders, preparation and clearance of (see also  
Order Administration)





UNITED STATES DEPARTMENT OF AGRICULTURE  
Food Distribution Administration  
Washington 25, D. C.

December 7, 1943

DIRECTOR'S MEMORANDUM NO. 42

Supplement 4

Summary Reports of Procurement in Connection with  
Set-aside and Quota Orders

In order to secure and maintain records of government procurement of products subject to FDA set-aside and quota restriction orders, the Administrator of each FDA order, unless specifically exempted by the Deputy Director for Food Industry and Regulatory Activities, shall prepare a periodic summary of reports received from individuals and firms regulated by the order showing the amount of "set-aside" or "quota free" food sold to each government agency. This material will supplement that now being obtained directly from government agencies, and will tend to offset their lag in time and incomplete coverage.

The summaries should show procurement separately by each of these agencies:

1. Army (including Post Exchanges, where the order so provides)
2. Navy (including Ship Service Departments)
3. Marine Corps (including Post Exchanges, where the order so provides)
4. Contract Schools (FDR-2)
5. Veterans' Administration
6. War Shipping Administration (including Ship Suppliers under FDR-3)
7. Other

The summaries shall be prepared monthly, unless reports under the orders are received quarterly, and transmitted as follows:

Original - Deputy Director for Food Industry & Regulatory Activities  
Copy - Deputy Director for Procurement Activities and Management Services  
Copy - Deputy Director for Civilian Activities and  
Copy - Chief of Requirements and Allocations Control

The Deputy Director for Procurement Activities and Management Services will be responsible for transmitting the summary report to the governmental agencies who are members of the Inter-Agency Food Procurement Committee.

Report forms now in use for the various orders should be utilized in preparing the summary report, except where the information submitted on such reports is not adequate for this purpose. In these latter cases, report forms shall be revised so as to furnish the necessary data. The Deputy Director for Food Industry and Regulatory Activities will assist the various order administrators in obtaining clearance of such proposed forms with the Bureau of the Budget as required by Director's Memorandum No. 53, Supplement 1.

For the present, reports shall be required only for FDO-Nos. 2, 10, 15, 16, 30, 42, 45, 54, and 75-2.

However, reports as outlined herein, will be required for all set-aside and quota restriction orders issued in the future, unless such orders provide otherwise.

*Reg. Food Admin.*  
Director

INDEX ENTRIES:

Order Administration: Set-aside and Quota Orders, summary reports of  
Procurement: Set-aside and Quota Orders, summary reports of (see  
also Order Administration)

Set-aside and Quota Orders, summary reports of (see also Order  
Administration)

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WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.

January 3, 1944

DIRECTOR'S MEMORANDUM NO. 42

Supplement 5

LIBRARY  
CURRENT SERIAL RECORD

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Compensating Adjustment of Minor Deficiencies in  
Connection with Set-Aside or Quota Orders

DEPT. OF AGRICULTURE

In those cases where a violation of the quota or set-aside provisions of a Food Distribution Order is found and is deemed to be relatively minor and not wilful, the appropriate Order Administrator, or upon specific authorization, the appropriate Regional Director, is authorized to invite and to accept proposals for a compensating adjustment. The Order Administrator or Regional Director may prepare a letter to the firm or individual concerned outlining the method by which the deficiency may be made up during such period as the Order Administrator or Regional Director may deem advisable. Such letters shall require agreement on the part of the violator to make up the deficiency and shall include a saving clause in substantially the following form:

Nothing contained in this letter shall be taken to condone your violation of Food Distribution Order No. \_\_\_\_, or to preclude the War Food Administration from prosecuting the violations mentioned above in the future if such prosecution is deemed advisable.

In order to coordinate this procedure with compliance and enforcement operations, the letters shall, in all cases, be routed to the Compliance Branch or, where appropriate, to the regional Compliance Division for review and approval. It shall be the responsibility of the Compliance Branch or the Compliance Division through its review of such proposals to maintain a uniform policy in connection with compensating adjustments, and also to determine the need for and, if necessary, to obtain clearance of the cases with the Solicitor's Office or the regional attorney.

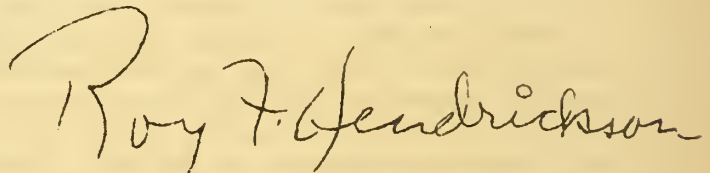
Where the Compliance Branch or Compliance Division determines that because of policy established in other cases, or advice of the Solicitor's representative, or current investigation, or for some other good and sufficient reason the compensating adjustment is not an



adequate remedy, the case shall be turned over to the Compliance Branch or Compliance Division for such action as is deemed advisable.

In arranging for compensating adjustments care must be exercised to avoid exacting penalties by way of make-up of deficits in excess of the actual amounts in deficit. However, the violator must be made to understand that the present adjustment is not a precedent for similar adjustments in the future and that strict observance of the order is expected.

Copies of compensating adjustments concluded by an Order Administrator shall be forwarded in all cases to the appropriate regional office and to the Compliance Branch in Washington, and copies of adjustments concluded by a regional office shall be forwarded to the appropriate Order Administrator and to the Compliance Branch in Washington.

  
Director

INDEX ENTRIES:

Order Administration: Set-aside and Quota Orders, compensating  
adjustment of minor deficiencies  
Set-aside and Quota Orders, compensating adjustment of minor deficiencies  
(see also Order Administration)

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WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.

February 7, 1944

DIRECTOR'S MEMORANDUM NO. 42

Supplement 6

Initiation and Preparation of Orders and Functions  
of Order Review and Clearance Committees

The purpose of this memorandum is to redefine and clarify the status and functions of the Order Review and Clearance Committee, as well as the responsibilities of the appropriate branch in connection therewith.

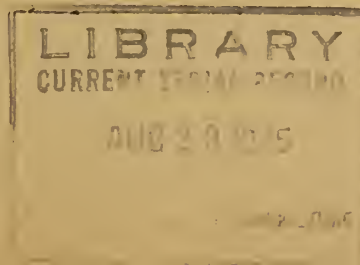
This Committee shall be composed of the Deputy Director for Food Industry and Regulatory Activities, who will be Chairman of the Committee; the Deputy Director for Procurement Activities and Management Services, the Deputy Director for Civilian Activities, the Economic Advisor to the Director, the Assistant Deputy Director for Food Industry and Regulatory Activities, the Assistant to the Deputy Director for Food Industry and Regulatory Activities, the Chief of Requirements and Allocations Control, the Chief of the Compliance Branch, the Chief of the Industry Operations Branch, and a representative from the Civilian Food Requirements Branch, together with a Secretary and any other persons designated by the Director. The Associate Solicitor for Food Distribution will act in an advisory capacity to the committee. Due to the importance of the functions and responsibilities of the committee, it is urged that the designated members attend all meetings of such committee, and that alternate members be appointed only in emergency cases.

The committee shall be responsible for the review and approval of all proposals for the issuance of limitation, allocation, restriction, or set-aside orders and regulations.

In emergency cases the chairman, or in his absence the acting chairman, may approve such proposals.

The committee shall also review existing orders or amendments to determine whether such orders or amendments shall remain in force and effect, or should be amended in any way.

The Secretary of the committee shall forward ditto copies of the order, when drafted, to the members of the committee for such review as is deemed advisable.



In determining the need for orders, the appropriate branch shall make every effort to plan its programs so that proposals for the issuance of orders are submitted to the committee for consideration well in advance of the intended effective date.

In making such determination, the branch shall be responsible for:

1. Preliminary consultations with the Civilian Food Requirements Branch and the Requirements and Allocations Control.
2. Collaborating with the Organization and Procedure Division in developing organizational and procedural plans for the administration of the proposed order.
3. Communicating with Administrative Services Division in connection with the final distribution of a proposed order.

Where it is determined that there is need for an order, the branch shall submit to the Chairman of the Committee an original and ten copies of a memorandum of intention outlining the proposed issuance of an order or amendment to an existing order.

In order that the committee may have sufficient information to evaluate the need for the proposed order, the memorandum of intention shall outline in detail the following data:

1. Need for the proposed order.
2. Purpose to be accomplished by the order.
3. Effect of the order, including the effect on civilian supply.
4. Scope of the order; i.e., products, materials, or equipment affected; restrictions imposed, and industry affected.
5. Present and prospective supply and demand positions of the items to be covered. (Where pertinent)
6. Together with any additional facts, which might be of assistance to the committee in appraising the proposal.


The requirements of Paragraph 3 (d) of Section A of Part 1 of Director's Memorandum No. 42, Revision 1, shall be followed in preparing the memorandum of intention.

The Secretary shall prepare an agenda for the members of the committee sufficiently in advance of the meeting of the committee to allow the members to review such agenda together with the related memorandum of intention and to determine the extent to which the interests he represents are involved.



Where it is finally determined that an order shall be issued, the branch in preparing a memorandum to the Administrator from the Director shall include, in addition to the data required by Director's Memorandum No. 42, Revision 1, any objections that have been received to the issuance of the proposed order or amendment to an existing order together with any anticipated difficulties in connection with the administration of the order or possible sources of complaint against such an order.

This memorandum supersedes those provisions of Director's Memorandum No. 42, Revision 1, which are inconsistent with the provisions set forth herein.

A handwritten signature in cursive script, reading "Lee Harshbarger".

Director

INDEX ENTRIES:

Committees: Order Review and Clearance Committee

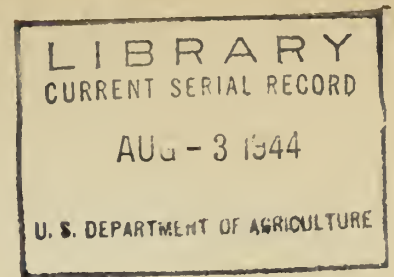
Order Administration: Order Review and Clearance Committee

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WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.



February 7, 1944

DIRECTOR'S MEMORANDUM NO. 42

Supplement 7

Interpretations and General Instruction in  
Connection with Food Distribution Orders

In accordance with Director's Memorandum No. 42, Revision 1, the Deputy Director for Order Administration was assigned the responsibility for the coordination of policies, plans, and procedures for the administration and enforcement of food distribution orders.

Therefore, all correspondence to the regional directors, or to any individuals assisting in the administration of orders in the field, covering interpretations, policies, or instructions of a general nature should be cleared through the office of the Deputy Director for Order Administration. In addition, such instructions or procedures to the field should also clear through the Deputy Director for Procurement and Management Activities for the purpose of coordination of field operations.

Because of the importance of maintaining adequate public relations with the various persons and industries affected by food orders, it is necessary that they be apprised of all statements of policy, administrative rulings, and interpretations concerning the operation of food orders. As it is the function of the Marketing Reports Division to serve as a focal point for the dissemination of such information to the trade and general public, each order administrator shall be responsible for notifying this division of the establishment of all policies, administrative rulings, and interpretations as outlined above.

It is to be noted that the above does not refer to correspondence in connection with a specific case, but only to correspondence of general applicability in connection with a particular order or orders.

Director

INDEX ENTRIES:

Food Distribution Orders, interpretations and instructions regarding  
(see also Order Administration)

Order Administration: FD Orders, interpretations and instructions regarding



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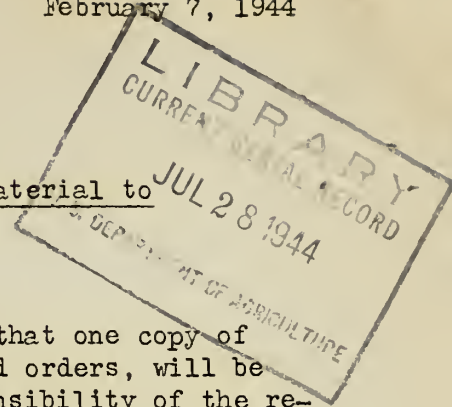
WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.

February 7, 1944

DIRECTOR'S MEMORANDUM NO. 42

Supplement 8

Distribution of Food Order Informational Material to  
Field Offices



A. Loose-Leaf Dockets

Director's Memorandum No. 42, Revision 1, provides that one copy of the loose-leaf docket, prepared for the various food orders, will be forwarded to the regional offices. It is the responsibility of the regional office to make distribution to the regional, State, and area offices of all material contained in or related to such docket. It is suggested that the food order representative, or such person as the Regional Director designates, in collaboration with the Marketing Reports Division and the appropriate commodity division, determine the distribution necessary. In distributing the docket material, the regional office shall be responsible for indicating that such material is for administration use only, where applicable. As additional information is received in the regional office in connection with the administration of the food orders, distribution shall be made as outlined above.

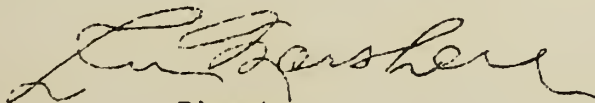
The need for distributing the information contained in the dockets, as well as related material, cannot be over-emphasized.

The regional offices may furnish any additional information that is deemed necessary to the field offices.

B. Summary Report of Petitions

In accordance with Director's Memorandum No. 42, Revision 1, weekly reports of petitions received should be submitted by the various order administrators and the regional offices to the Deputy Director for Food Industry and Regulatory Activities in order that the combined summary report may be prepared by the Office of the Deputy Director.

In order that the State and area offices may be currently informed of the activities under the various food orders, it is suggested that copies of the summary report be distributed by the regional offices to the field offices as well as to the interested persons in the regional offices.

  
Director

INDEX ENTRIES:

Loose-leaf Dockets, prepared for food orders (see Order Administration)  
Order Administration: Informational Material, distribution of  
Loose-leaf dockets  
Report, summary, of petitions  
Report, summary, of petitions (see Order Administration)  
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WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.

June 2, 1944

DIRECTOR'S MEMORANDUM NO. 42

Supplement 9

Policy Governing Food Order Education

The primary responsibility for food order education shall be in the branches charged with the administration of food orders. This function includes cooperative efforts with trade groups to promote understanding of and encourage voluntary compliance with food orders.

The Marketing Reports Division shall have the responsibility for coordinating food order educational activities both in Washington and in the field. In addition to these new functions, the Marketing Reports Division shall retain the food order education functions formerly assigned to it, such as the preparation of educational and informational material on food orders based on information supplied by the respective Order Administrators, and the dissemination of such material.

The Compliance Branch, either on its own initiative or upon specific request of the appropriate commodity branch, shall have responsibility for making compliance surveys for the purpose of ascertaining adherence to the provisions of food orders. The results of such surveys will be submitted to the appropriate commodity branch and to the Marketing Reports Division.

This memorandum supersedes Director's Memorandum No. 42, Revision 1, and supplements thereto to the extent to which they are inconsistent with the provisions hereof.

*Lee Marshall*

Director

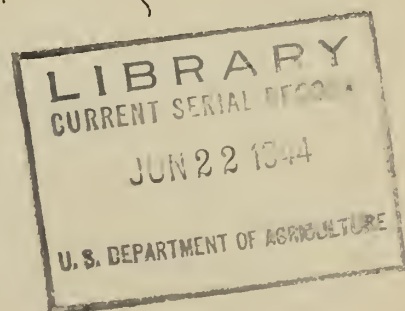
INDEX ENTRIES:

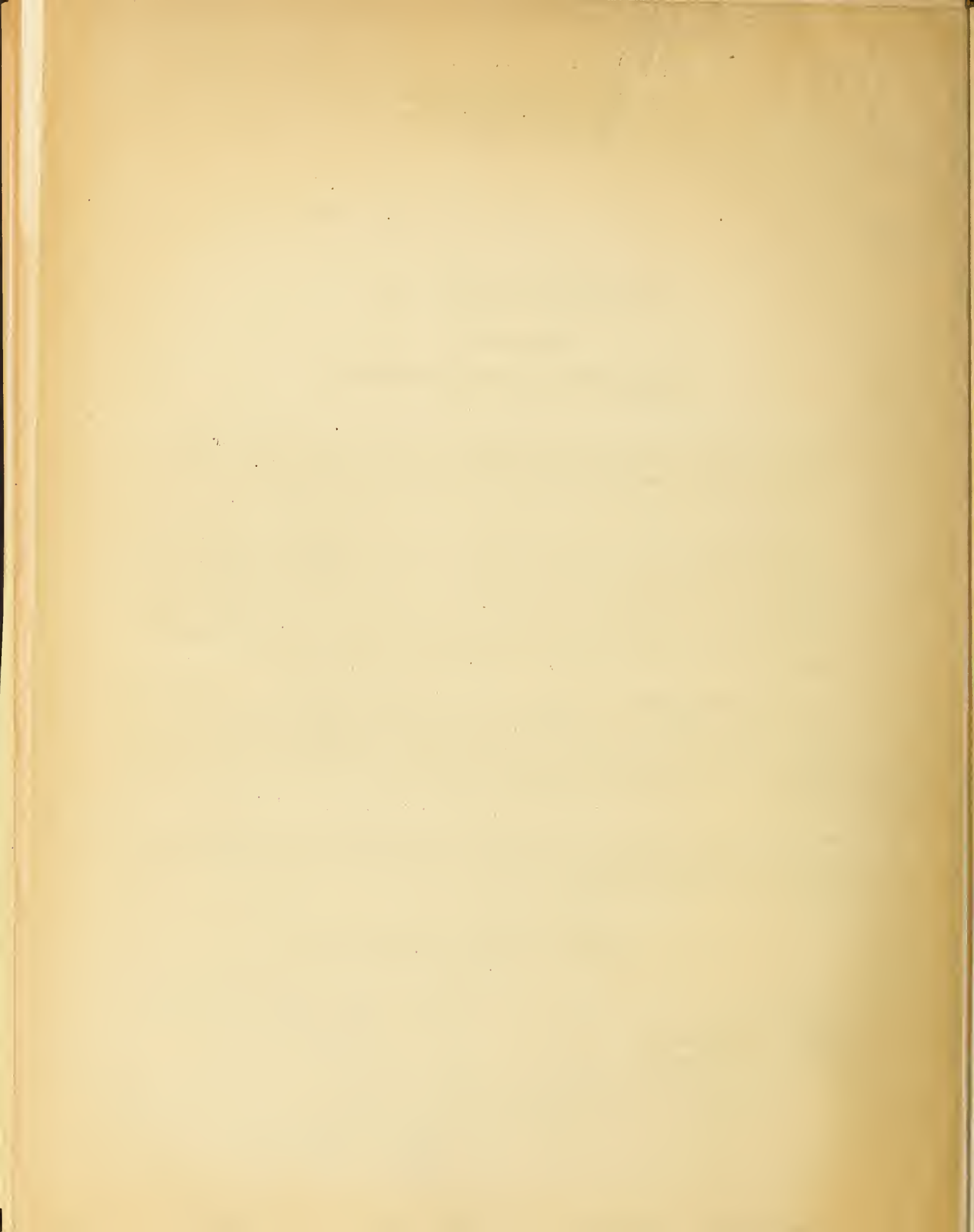
Food Order Education

Order Administration:

Food Order Education

Assignment of responsibilities for





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WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.

August 4, 1944

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DIRECTOR'S MEMORANDUM NO. 42

Supplement 10

Order Review and Clearance Committee

The Order Review and Clearance Committee, established in Director's Memorandum No. 42, Revision 1, is hereby reconstituted to include the following:

Deputy Director for Commodity and Industry Regulation, Chairman  
Deputy Director for Supply  
Deputy Director for Civilian Programs  
Deputy Director for Management  
Assistant Deputy Director for Commodity and Industry Regulation  
Chairman of Petition Review Committee  
Chief of Procurement and Price Support Branch  
Chief of Civilian Food Requirements Branch  
Chief of Requirements and Allocations Control  
Chief of Compliance Branch  
Chief of Industry Operations Branch  
A Secretary

The Associate Solicitor for Office of Distribution will act in an advisory capacity to the Committee.

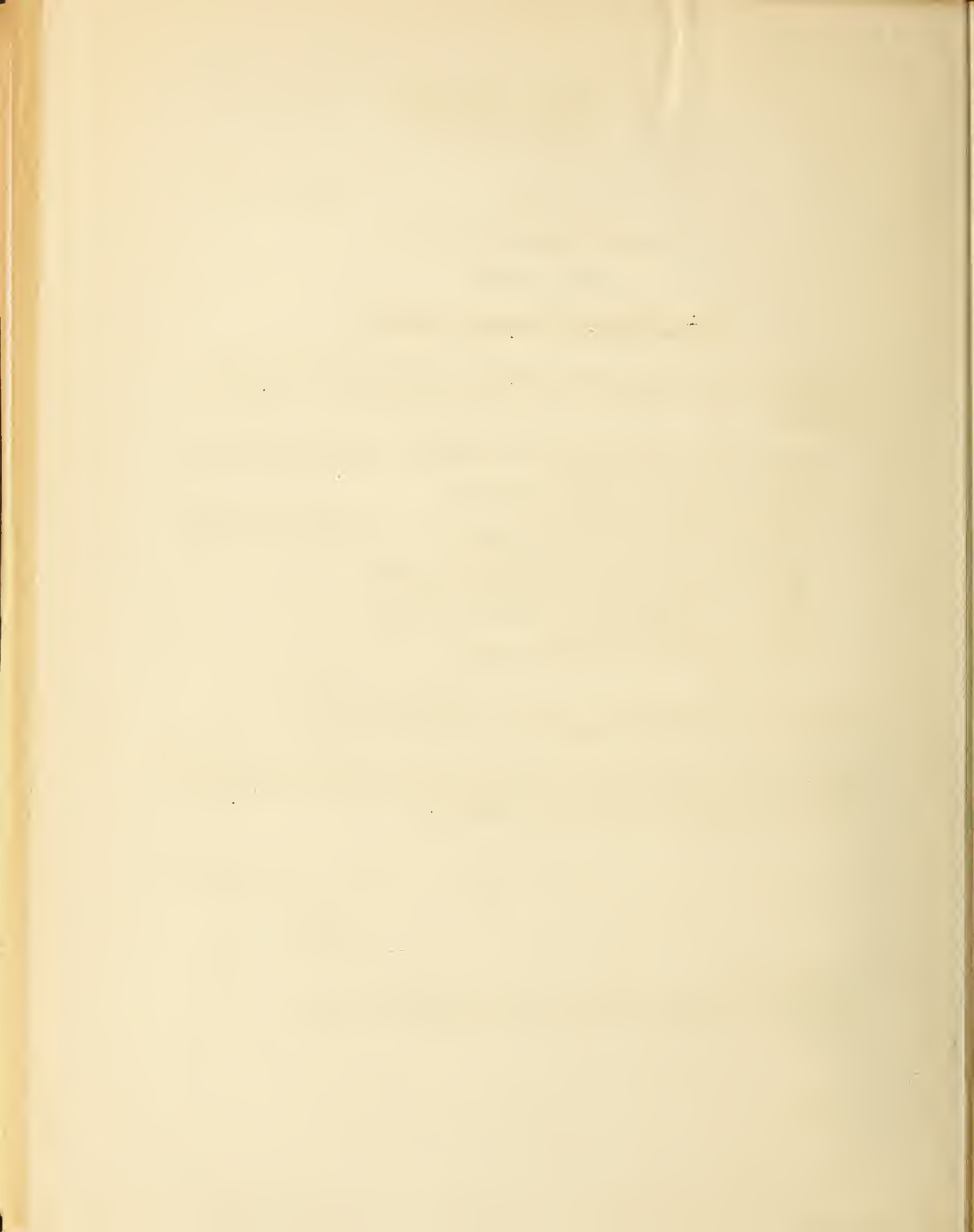
This memorandum supersedes those provisions of Director's Memorandum No. 42, Revision 1, and Supplement 6 thereto, dealing with the composition of the Order Review and Clearance Committee.

  
Director

INDEX ENTRIES:

Committees: Order Review and Clearance Committee  
Order Administration: Order Review and Clearance Committee





WAR FOOD ADMINISTRATION  
Office of Distribution  
Washington 25, D. C.

October 7, 1944

DIRECTOR'S MEMORANDUM NO. 42  
Supplement 11

Food Order Functions of District and Subdistrict Representatives

I. Policy

In view of the close contacts and relationships established by Office of Distribution field representatives with the trades and industries affected by War Food Orders, and because of the strategic location of District and Subdistrict Offices in important food processing and trade centers, these offices are assigned responsibility for performing the food order functions set forth below. These functions shall be in addition to those contained in specific delegations issued in connection with certain food orders to Regional Directors by the Deputy Director for Commodity and Industry Regulation.

II. Specific Food Order Functions

Copies of food orders, amendments thereto, question-and-answer leaflets, interpretations, etc., will be made available to all District and Subdistrict Offices immediately upon issuance. The District Representative or some member of his staff shall keep currently informed on food orders applying to his district in order to be in a position to answer promptly and accurately routine inquiries from the trade. Questions which the District Representative cannot answer with certainty, or which require an interpretation of an order or any of its provisions, shall be referred to the Order Administrator or his deputy.

District Representatives should attend educational meetings that may be activated by the industry itself or by local trade or civic groups. They are not expected to stimulate or otherwise initiate meetings with trade groups except at the request of the Regional Director following consultation with the Order Administrator or the appropriate branch representatives. Reports of requests from trade groups to participate and reports of the meetings attended should be made to the Regional Director for reference to the Marketing Reports Division and the appropriate commodity branch.

While District Representatives have been asked to report to the Compliance Branch in the field specific violations coming to their attention, they also should report monthly to the Regional Director on the need for additional educational activities in their districts, as well as the prevailing attitude of the trade toward an order or certain of its provisions. The Regional Director, in turn, will make such reports available to the appropriate commodity branch concerned.

District Representatives will be asked from time to time to release information locally in their own name. While such requests will come from the regional Marketing Reports Division, the District Representatives should feel free to suggest to the regional office appropriate and timely releases on specific orders.

